

Newfields Planning Board Meeting  
January 2, 2008

Attendance: William Meserve, Elliot Alexander, Mike Todd, Town Planner Clay Mitchell and Selectman's Representative Michael Woodworth. Absent from the meeting was Mike Price.

The meeting was called to order at 7:01pm.

Chairman Bill Meserve informed the audience that the Board voted at their last meeting to move forward with a public hearing on the adoption of the prime wetlands designation. Wetland Scientist Mark West from West Environmental did a presentation on prime wetlands and answered residents questions.

The Conservation Commission came to the Board and presented three tiers of wetlands as identified in the West Environmental Report. The Board is only asking to protect tier 1 and tier 2; a total of 22 wetlands and 562 acres. The tier 3 wetlands are under 2 acres and of lesser value.

Mark West explained that the permitting process will require better review and protection of the wetlands but it does not stop any development. A developer would have to look at alternatives and minimizing impacts where wetlands were involved.

Bill Meserve added that we currently have a 100 foot wetland buffer requirement in our zoning ordinances.

Conservation Commission Chair Alison Watts explained that the Conservation Commission has been discussing prime wetlands protection for the past 1 ½ years. The Commission is made up of volunteers and they are not professionals. When it comes to making decisions regarding wetlands they do what they think is right. They do not have the resources or knowledge to make educated decisions regarding wetlands. They would feel more comfortable handing over those decisions to DES. This designation would assist the Planning Board and Conservation Commission with making better judgments.

Glen White of 5 Conner Lane spoke in opposition. He feels residents that will be affected by this designation should have been notified individually. He was unaware that a portion of his property is wetlands. Mr. White does not have plans to do anything within the 100 foot buffer but if he ever did he doesn't want to have to go to Concord. He is not against protecting wetlands but it seems like a duplication of effort in his opinion.

Bill Meserve commented that we currently have a process in place to protect wetlands but this will take it a step further. Projects within 100 feet of wetlands would be looked at more closely.

Derek Rugg of 123 Piscassic Road asked who would enforce the restrictions. Who is going to come on his property and tell him he can't cut trees down?

Mark West replied that the designation will not affect tree cutting unless you are next to a tidal wetland where there is a shoreline protection regulation.

Derek asked about beaver ponds. Beaver ponds grow and shrink. Are they considered wetlands? Mark West replied that if in the future a parcel is no longer a wetland; it is not jurisdictional but it is still a wetland because the soils remain the same for 10+ years. He added that the Newfields wetlands were mapped using aerial photos and boundaries were determined by vegetation.

Mark said that the hydric soils and vegetation of beaver ponds exhibit the characteristics of wetlands. Also, beavers have the ability to create new wetlands.

Elliot stated that none of the wetlands are new. Wetlands have been wetlands for some time. Several of us may have properties with wetlands identified but nobody wants to build on a wetland. We may want to cross a wetland or build something adjacent to it but that is it.

Pat Edgerly informed us that 2/3 of her land is wetlands according to the wetland map. She does not agree with the mapping and would like a revision done. She does not recall anyone entering her property or asking permission to go on her property to look at it. She was told that land abutting wetlands will still have to go to Concord for a permit regardless. When Pat built her house she had to go to DES and had a wetland designation done at that time. She also asked if the Town was going to give her a rebate on her taxes for land that cannot be used or is restricted.

Mark West explained that the Edgerly property along the Squamscott River is tidal wetlands. He examined them from the shoreline of the marsh and traveled by canoe. He did not go on her property. The permitting process is not going to change for those wetlands and the tidal marsh is not going to change over time. It is protected by a 100 foot buffer.

Jim Daley of 89 Old Lee Road asked if any project that comes before the Board with wetlands will require a State permit. Mark West reiterated that only activity within 100 feet from prime wetlands will require state permitting. There was some confusion as to the definition of adjacent land. He clarified that land is not adjacent if it is outside the 100 foot buffer.

Mark explained the process if the Town approves prime wetlands. The maps, aerial photography and studies are sent to the State for review and approval. From then on when work is done in or within 100 feet of a wetland in Newfields, the State has the maps to refer to.

Keith Ludwig said it appears that the town controls the wetlands locally and the State controls them through legislation. If we adopt prime wetlands the Town is losing local control. Will wetland permits have to go through the Town and the State? Mark West stated that permits go to the State now and a copy is sent to the Conservation Commission who has advisory authority.

Bill Meserve commented that in the past, if the Planning Board was concerned with wetlands on a project they would have the applicant hire someone to do an analysis.

Keith Ludwig mentioned that the study was done by one group with one “snap shot in time”. How is he going to defend the boundaries that have been defined? He would like to have the impact of what has been found defined by a second party. It makes sense to him not to rush into something this important. Tonight is the first he has heard about protecting prime wetlands. Is there a benefit to making such a quick decision? He needs more time to research the evidence.

Mark West did his field inspections during the spring and summer and the State will review all the information he submits. If a landowner hires someone to do a separate study and the boundaries are found to be incorrect, they may be changed. Amendments can be made based on new information. The areas seen from aerial photos are the core wetlands. It is pretty clear where the boundaries are between a pine forest and a red maple swamp.

Alison Watts said that they have done the best they could with notifying the public regarding the prime wetlands designation. The Commission has been working on this for a few years. If we put this off for another year we will have the same problem of people not being informed.

Gerald Kalish, 134 Old Lee Road agrees that our wetlands need to be protected. He is not hearing anything about protection for the landowner. He believes his land will be de-valued despite the fact that he is being told that it will not change. Is the town willing to make up the difference if the value of our land decreases?

Alison said that she called the Exeter Assessor and asked if there had been any claims of land being valued less because of prime wetlands and he had heard of none.

Stephany Daley of 89 Old Lee Road stated that she has owned her land for 35 years and will be posting it to prevent trespassing. She is concerned about an existing road on her property within 100 feet of wetlands.

Mark West informed her that this designation does not affect existing conditions it would affect any new disturbances of wetlands.

Ray Konisky noted that more people were affected when the wetland buffer was changed from 75 feet to 100 feet than will be affected by this. Wetland boundaries are not changing; the regulations are changing. He added that Boards struggle to communicate

effectively and they have made the best effort possible to let folks know that these changes are happening. We have good wetlands, setbacks, wildlife habitat, and clean water. He is in favor of keeping it that way and adopting prime wetlands.

Wes Moore stated that tonight the Planning Board is voting on whether or not to place this article on the warrant for a town vote. It will not be discussed at the deliberative session because it is a zoning article. This is the only hearing that will be held on prime wetlands. He is questioning whether or not this is good business for the Town. Should we give control to the State? Should we do this right away? Is there any evidence that the wetlands are not functioning properly or that they are failing?

Ray Konisky informed us that he is a researcher and there is evidence. The watersheds are filled with silt. Oyster beds are becoming smothered as well as eelgrass beds. This is a huge impact us.

Alison agreed with Ray and said she works every day with storm water protection. Our rivers are degrading and flooding has affected us significantly.

Steve Shope works as a Soil Scientist and said that no one is allowed to do logging in the wetlands, regardless of whether or not it has been designated as prime. These are the forestry and wetland laws that are currently in place.

Derek Rugg said that his grandmother has protected her 180 acres for years. On their property there is a man-made wetland that was created in the 1920's and used as farm land.

Alison replied that a wetland created years ago is a wetland today and still has functional value.

Paul Watson of 70 Halls Mill Road spoke in opposition. He is displeased that the Conservation Commission and Planning Board did not notify each landowner affected by this designation. A year ago he was before the Board for a subdivision and at that time he had to do a full survey and wetlands study. As a result of the study, his wetlands changed from 2 acres to 4.6 acres. A few years ago he offered the town the opportunity to purchase his land for open space and at that time his land was not important enough to consider. But now they want to protect the wetlands. Paul added that his land has been posted for 20 years and no one asked permission to go on his property. Paul believes in conservation but he feels landowners should be able to go to their local planning board for permits.

Jim Daley stated that the Planning Board or Conservation Committee has the ability to call the DES in on any project.

Tom Gage of 38 Halls Mill Road commented that this was the first time that someone came on to his property without asking. He was not able to get to the town office to see the wetlands map and he is concerned because it looks like 80% of his property is in the

zone. He believes this is an extra level of protection that is unnecessary. He had his wetlands delineated when he built his house. So the Board did not need any expertise to make any decisions it was done for them. He certainly thinks it is easier for local people to deal with local boards and regulators. He is against designating prime wetlands.

Mike Todd has a big concern with rushing into designating prime wetlands. The Conservation Commission and West Environmental worked hard and put a lot of effort into bringing this forward. The environment is important to all of us but more landowners need to know and understand what this means. He would like to see more debates and discussion to educate voters before moving forward. He believes the landowners deserve to know more about what is going on. A town wide mailing is different than an individual letter stating you will be affected because you have wetlands on your property.

Clay noted that this would not qualify for a special town meeting and it would have to wait until next year if the Planning Board votes not to go forward.

Michael Woodworth commented that we have valuable resources and they need to be protected.

A motion was made by Mike Todd to delay the vote and schedule some quarterly meetings with further debate. The motion failed to pass due to the lack of a second.

A motion was made by Elliot and seconded by Mike Woodworth to place this question on the warrant for the designation of prime wetlands identified as Tier 1 and Tier 2 in the West Environmental Report dated November 2006. The motion carried with three in favor and one against.

### **Vienneau Preliminary Discussion**

Jonathan Ring from Jones and Beach and Attorney Bob Battles were present representing Mary & Jim Vienneau. The applicant is proposing a 12-lot subdivision off of Old Lee Road. They were before the Board in June and July with a preliminary plan and after having a wetland study done they discovered they have more uplands than first thought. The wetlands on the property have been flagged and delineated. They presented possible layouts based on a density calculation of 12. Plan A and B show 12 units including the existing home on the property. The homes would have on-site leach fields and wells. One plan has 1600 linear feet of roadway and the second plan has 1200 linear feet of common driveway. There is a 75 foot buffer around the perimeter of the parcel.

Town Planner Clay Mitchell made comments regarding the intent of our ordinances. He believes the intent of the Conservation Subdivision Ordinance is to create some flexibility while keeping the subdivision compacted. His interpretation of Section 11.7.3 regarding the timing of necessary permits to access non-contiguous areas would be to grant final approval of the density after all permits are granted. Wetland approvals are needed prior to consideration of approval not consideration of the plan. This would allow the Board to participate jointly with the applicant in the design process pending the permit approvals.

Attorney Battles did mention that the Board agreed in June that the wetlands crossing permit could be filed concurrently with the subdivision application.

Section 11.7.3.3 restricts the road design standards but there is a provision that allows the Board to waive the standards on the roadway length to provide flexibility.

The Board discussed moving the entrance to the subdivision to where the existing driveway is located. This would mean reducing the 75 foot natural buffer. The applicant expects to have a wetlands crossing which will need DES approval. The Board would prefer a road with a loop rather than a common driveway. A waiver will be needed for the cul-de-sac length and 75 foot buffer requirement.

**Long Bow Realty –Site Plan Review**

Dave Garvey was present and told the Board he spoke with the Fire Chief about a 15,000 gallon cistern and a proposed detention pond. He plans on having a single well serve both lots 1 & 2. He asked if the Board was okay with leaving the back parking lot as gravel until it is ready to be paved. They were fine with that. District 6 has approved the entrance to the subdivision and the Water Commissioners have agreed that the aquifer is not viable. Abutters were re-noticed in December. A motion was made by Mike Todd and seconded by Elliot to continue the hearing until next month. There are no plans on file at this time and the plan has not been accepted.

The meeting adjourned at 10:15pm.

Respectfully submitted,

Sue McKinnon